

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

2125, INC.,

Plaintiff,

VILLAGE OF MELROSE PARK,
a body politic,

Defendant.

Case No. 00 C 0680

Judge John W. Darrah

NOTICE OF MOTION

TO: Fred L. Foreman
Joseph P. Roddy
Freeborn & Peters
311 South Wacker Drive, Suite 3000
Chicago, IL 60606-6677

Notice of Filing

FILED
FEB 01 2002
MICHAEL W. DOEBING
CLERK, U.S. DISTRICT COURT

PLEASE TAKE NOTICE that on February 1, 2002, I filed with the Clerk of the United States District Court, Northern District of Illinois, the attached MOTION TO REINSTATE.

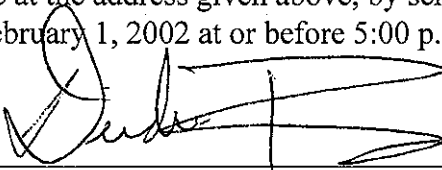
PLEASE TAKE FURTHER NOTICE that on February 7, 2001 at 9:00 a.m., Plaintiff will appear before the Honorable Judge Darrah, or anyone sitting in his stead, in Courtroom 1203, in the Dirksen Federal Building at 219 S. Dearborn in Chicago, Illinois, and then and there present Plaintiff's motion, at which time you may appear and be heard.

Proof of Service

DOCKETED

FEB 11 2002

The undersigned attorney hereby certifies that a copy of said motion was served upon the attorneys named above at the address given above, by sending said document *via* United States Post in Chicago, on February 1, 2002 at or before 5:00 p.m., proper postage prepaid.


Deidre Baumann, One of Plaintiff's Attorneys

Baumann, Shuldiner & Lee
Three First National Plaza, Suite 3700
Chicago, IL 60602

(312) 558-3119

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2125, INC.,

Plaintiff,

VILLAGE OF MELROSE PARK,
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MICHAEL W. DOBBS
CLERK, U.S. DISTRICT COURT

MOTION TO REINSTATE

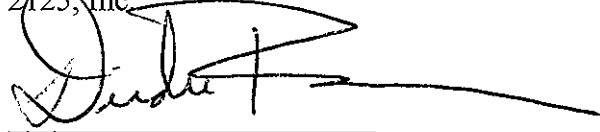
NOW COMES the Plaintiff in the above-captioned case, 2125, INC., by and through its attorney, Deidre Baumann, and respectfully requests that this Court reinstate this matter. In support of this request, Plaintiff states as follows:

1. This matter was apparently dismissed for want of prosecution on July 3, 2001. *See* Transcript of Proceedings, attached hereto as Exhibit A. While the caption page of the transcript reflects that the case at issue was the related case, *JMV, Inc. v. Melrose Park*, Case No. 00 C 925, counsel for the Defendant states, "[t]here are two cases . . . that have been enjoined as related. One is 00 C 0680, and the other is 00 C 0925." Exhibit A at 3. The Court simply stated "I'm going to dismiss this for want of prosecution." *Id.*
2. The docketing sheet for the instant case does not and did not ever reflect the July 3, 2001 order of dismissal. *See* Docketing Sheet, attached hereto as Exhibit B.
3. The Plaintiff was, at all relevant times, represented by Attorney Michael Null. Upon information and belief, Mr. Null was suffering significant health problems at or about July 3, 2001 and failed to appear at the hearing on July 3, 2001.
4. The client was never informed that the case was dismissed or was in jeopardy of being dismissed. *See*, Affidavit of Jeanette Urbinati, attached hereto as Exhibit C. At no time

did Plaintiff intend to abandon its right to proceed. *Id.*

5. Plaintiff, 2125, Inc., is ready, willing and able to proceed with the prosecution of this lawsuit. Defendant would not be prejudiced by the reinstatement of this matter.

Respectfully submitted,
2125, Inc.

A handwritten signature in black ink, appearing to read 'Deidre', followed by a long horizontal flourish.

By: Its Attorney

Deidre Baumann
Baumann, Shuldiner & Lee
Three First National Plaza, Suite 3700
Chicago, IL 60602

(312) 558-3119

CLERK'S FILE COPY

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JUL 19 2001

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

No. 00 C 925

Chicago, Illinois

July 3, 2001

9:30 a.m.

Status Hearing

DOCKETED

JUL 23 2001

JMV, INC.,

Plaintiff,

v.

VILLAGE OF MELROSE PARK,
A body politic,

Defendant.

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JOHN W. DARRAH

APPEARANCES:

For the Defendant:

FREEBORN & PETERS, by,
MR. FRED L. FOREMAN
MR. JASON CHRISTOPHER DE SANTO
311 South Wacker Drive - Suite 3000
Chicago, Illinois 60606

Valarie M. Harris - Official Court Reporter
219 South Dearborn Street - Room 1212
Chicago, Illinois 60604
(312) 435-6891

PLAINTIFF'S
EXHIBIT

A

1 THE CLERK: 2000 C 925 JMV, Inc. versus Melrose Park.

2 MR. FOREMAN: Good morning, Your Honor.

3 THE COURT: Good morning, Mr. Foreman. How are you?

4 MR. FOREMAN: Fred Foreman and Jason DeSanto for
5 defendant --

6 THE COURT: Mr. DeSanto, you kind of boxed him out of
7 the lane there.

8 MR. DE SANTO: Yes, I could not get to the hoop, Your
9 Honor.

10 MR. FOREMAN: -- for the defendants, Village of
11 Melrose Park.

12 And our counsel doesn't appear to be here. We've
13 had -- one of the problems, we have had very difficult times
14 getting in touch with opposing counsel.

15 THE COURT: Do you want to give him a call? You can
16 use our phone in here if you want. Or should we pass it or --

17 MR. FOREMAN: We can try and call him, Your Honor.

18 THE COURT: Why don't we do that. Why don't we just
19 pass it for a few minutes.

20 MR. FOREMAN: Sure.

21 THE COURT: And we'll recall it. When you catch our
22 attention, we'll recall it.

23 (Whereupon, other cases were called and heard.)

24 THE COURT: Mr. Foreman, how did we do?

25 MR. FOREMAN: I called Mr. Null's office, and Sally

1 Rodriguez, his receptionist, indicated that Mr. Null is out of
2 town, is expected back into town sometime next week.

3 The other counsel that has appeared in the past,
4 Deidre Baumann, no longer offices with Mr. Null, so --

5 THE COURT: This date was set with notice to all
6 parties?

7 MR. FOREMAN: Yes.

8 THE COURT: And what's the number on this one again?

9 MR. DE SANTO: There are two cases, Your Honor, that
10 have been joined as related. One is 00 C 0680, and the other
11 is 00 C 0925.

12 THE COURT: Okay. Well, the docket sheet reflects
13 that there had been two status dates -- one status date prior
14 to this -- two status dates prior to today, and on both
15 occasions notice was sent to all parties. The matter was set
16 for status for today three weeks ago, and all parties were
17 provided notice.

18 Do you have a motion, Mr. Foreman?

19 MR. FOREMAN: We're ready to go, Judge.

20 THE COURT: Well, I'm going to dismiss this for want
21 of prosecution.

22 MR. FOREMAN: Okay.

23 THE COURT: And you might convey that to plaintiff's
24 attorney.

25 MR. FOREMAN: All right.

1 THE COURT: And you might convey to plaintiff's
2 attorney that I did recite the recent history of the case.

3 The record should reflect that the hour is now 9:45.

4 MR. FOREMAN: It would appear that Mr. Null has
5 created somewhat of a void.

6 THE COURT: It would seem. Although things go much
7 easier when there's only one side present.

8 MR. FOREMAN: Agreed, Judge.

9 THE COURT: But you don't reach any resolution this
10 way. So you might convey my message to Mr. Null.

11 MR. FOREMAN: Thank you.

12 MR. DE SANTO: Thank you, Your Honor.

13

14 * * * * *

15

16 C E R T I F I C A T E

17

18 I hereby certify that the foregoing is a true and
19 correct transcript of the above-entitled matter.

20

21 Valarie M. Harris
Official Court Reporter

22

23

24

25

7/18/01
Date

Docket as of December 26, 2001 9:40 pm

Web PACER (v2.3)

U.S. District Court
Northern District of Illinois (Chicago)
CIVIL DOCKET FOR CASE #: 00-CV-680
2125 N 15th Ave Corp v. Melrose Pk, Vlg of

Filed: 02/02/00
Assigned to: Hon. John W. Darrah
Jury demand: Defendant
Demand: \$0,000
Nature of Suit: 440
Lead Docket: None
Jurisdiction: Federal Question
Dkt# in other court: None
Cause: 28:1331 Federal Question

2125 NORTH 15TH AVENUE
CORPORATION
 plaintiff

Michael Elliot Null
[COR LD NTC A]
Michael Null & Associates
155 North Michigan Avenue
Suite 600
Chicago, IL 60601
(312) 565-2570
Deidre Baumann
Attorney at Law
Three First National Plaza
Suite 3700
Chicago, IL 60602
(312) 558-3119

v.
VILLAGE OF MELROSE PARK, a
body politic
 defendant

Joseph Michael Giglio
[COR]
Onesto, Giglio, Meltreger &
Associates
6832 West North Avenue Suite 4b
Chicago, IL 60635
(312) 889-1200
Gerald Patrick Callaghan
[COR NTC]
Fred L. Foreman
[COR LD NTC A]
Joseph P. Roddy
[COR]
Jason Christopher DeSanto
[COR]

**PLAINTIFF'S
EXHIBIT**

B

Freeborn & Peters
 311 South Wacker Drive
 Suite 3000
 Chicago, IL 60606
 (312)360-6000
 Theresa Lynn Davis
 [COR]
 Katten, Muchin & Zavis
 525 West Monroe Street
 Suite 1600
 Chicago, IL 60661-3693
 (312) 902-5200
 Michael Thomas Del Galdo
 [COR LD NTC A]
 Michael T. Del Galdo &
 Associates, Ltd.
 6832 West North Avenue
 Suite 4 B
 Chicago, IL 60707
 773-889-1200

DOCKET PROCEEDINGS

DATE	#	DOCKET ENTRY
2/2/00	1	COMPLAINT - Civil cover sheet - Appearance(s) of Michael Elliot Null as attorney(s) for plaintiff (original and 1 copy summons(es) issued.) (Documents: 1-1 through 1-3) (dj) [Entry date 02/03/00] [1:00cv680]
2/2/00	--	RECEIPT regarding payment of filing fee paid; on 2/2/00 in the amount of \$ 150.00, receipt # 1064075. (dj) [Entry date 02/03/00] [1:00cv680]
2/15/00	--	SCHEDULE set on 2/15/00 by Hon. Charles P. Kocoras : Status hearing set to 9:30 3/29/00 . At the initial hearing, parties to report on the following: 1. Possibility of settlement. 2. If no possibility of settlement exists, the nature and length of discovery necessary to prepare case for trial. Discovery plans need not be in writing unless ordered by the Court. Provisions of FRCivP 26 (a)(1) shall not apply unless expressly ordered by the Court. Plaintiff is directed to advise all other parties of the Court's action herein. Lead counsel for each party is required to attend the initial hearing. Mailed notice (st) [Entry date 02/15/00] [1:00cv680]
2/29/00	2	ATTORNEY APPEARANCE for defendant by Michael Thomas Del Galdo, Joseph Michael Giglio (dj) [Entry date 03/01/00]

[1:00cv680]

- 3/17/00 3 ATTORNEY APPEARANCE for defendant by Gerald Patrick Callaghan, Jason Christopher DeSanto, Theresa Lynn Davis (dj) [Entry date 03/20/00] [1:00cv680]
- 3/17/00 4 MOTION by defendant for extension of time to answer or otherwise plead to plaintiff's complaint ; Notice (dj) [Entry date 03/24/00] [1:00cv680]
- 3/23/00 5 MINUTE ORDER of 3/23/00 by Hon. Charles P. Kocoras: Defendant's motion for an extension of time to 4/14/00 to answer or otherwise plead is granted. [4-1] Status hearing re-set to 9:30am on 4/18/00 . Mailed notice (dj) [Entry date 03/24/00] [1:00cv680]
- 4/14/00 6 MOTION by defendant to dismiss plaintiff's complaint ; Memorandum in support; Notice (dj) [Entry date 04/19/00] [1:00cv680]
- 4/18/00 7 MINUTE ORDER of 4/18/00 by Hon. Charles P. Kocoras: Plaintiff informs the court that the proper name of plaintiff is "2125 North Inc." Defendant's motion to dismiss is entered and continued to 5/3/00 at 9:30am. [6-1] Status hearing held and continued to 9:30 am on 5/3/00 . Mailed notice (dj) [Entry date 04/19/00] [1:00cv680]
- 5/3/00 8 MINUTE ORDER of 5/3/00 by Hon. Charles P. Kocoras : Status hearing held. Plaintiff is given leave to file an amended complaint. Pending motion to dismiss is presently withdrawn. [Doc 6-1] Defendant is given to 05/24/00 to answer or otherwise plead to the amended complaint. In the event defendant files a motion to dismiss, plaintiff's answer to said motion is due 06/14/00. Reply due 06/21/00. Ruling set for 07/12/00 at 9:30 a.m. Mailed notice (hp) [Entry date 05/04/00] [1:00cv680]
- 5/8/00 9 AMENDED COMPLAINT [1-1] by plaintiff; Notice (dj) [Entry date 05/09/00] [1:00cv680]
- 5/24/00 10 ANSWER and defenses by defendant to plaintiff's complaint [9-1]. (dj) [Entry date 05/25/00] [1:00cv680]
- 6/5/00 11 JURY DEMAND by defendant. (dj) [Entry date 06/06/00] [1:00cv680]
- 7/10/00 12 MOTION by defendant for reassignment based upon relatedness of case no. 00 C 925 (Attachment); Notice of motion; Notice of filing (hp) [Entry date 07/14/00] [Edit date 07/14/00] [1:00cv680]
- 7/12/00 13 MINUTE ORDER of 7/12/00 by Hon. Charles P. Kocoras : Status hearing held and continued to 09/06/00 at 9:30 a.m. Defendant's motion for reassignment of 00 C 925, presently before Judge Gottschall, based upon relatedness is granted. This Court will recommend to the Executive Committee that 00 C 925 be reassigned to the calendar of Judge Kocoras. [12-1] Mailed notice (hp) [Entry date 07/14/00] [1:00cv680]

7/26/00 14 MOTION by plaintiff to reconsider recommendation; Notice. (mf) [Entry date 08/09/00] [1:00cv680]

8/9/00 15 MINUTE ORDER of 8/9/00 by Hon. Charles P. Kocoras : Plaintiff's motion to reconsider recommendation is denied without prejudice [14-1]. Mailed notice (mf) [Entry date 08/09/00] [1:00cv680]

9/1/00 -- SCHEDULE set on 9/1/00 by Hon. Charles P. Kocoras : Status hearing reset to 9:30 9/12/00 . Telephone and mailed notice (st) [Entry date 09/01/00] [1:00cv680]

9/5/00 -- EXECUTIVE COMMITTEE ORDER of 09/05/00: Case reassigned to Hon. John W. Darrah. (dcap) [Entry date 09/05/00] [1:00cv680]

9/6/00 -- SCHEDULE set on 9/6/00 by Hon. Charles P. Kocoras : Cause having been reassigned to the calendar of Judge Darrah, status hearing set for 9/12/00 before Judge Kocoras is stricken. Mailed notice (st) [Entry date 09/06/00] [1:00cv680]

10/1/00 -- SCHEDULE set on 10/1/00 by Hon. John W. Darrah : The above-entitled case has been reassigned to the calendar of Judge John W. Darrah. All dates and schedules that were previously set by the former judge are to stand. Status hearing set to 9:30 10/12/00 before Judge Darrah in Courtroom 1203. Mailed notice (lg) [Entry date 10/01/00] [1:00cv680]

10/12/00 -- SCHEDULE set on 10/12/00 by Hon. John W. Darrah : Status hearing held. Mailed notice (lg) [Entry date 10/15/00] [1:00cv680]

7/3/01 16 ATTORNEY APPEARANCE for defendant Vlg of Melrose Pk by Fred L. Foreman, Joseph P. Roddy, Jason C. DeSanto. (mf) [Entry date 07/03/01] [1:00cv680]

12/11/01 18 MOTION by plaintiff for leave to file, instantner, supplemental appearance of counsel; Notice (ar) [Entry date 12/26/01] [1:00cv680]

12/19/01 17 ATTORNEY APPEARANCE for plaintiff by Deidre Baumann; Notice . (air) [Entry date 12/20/01] [Edit date 12/20/01] [1:00cv680]

12/19/01 19 MINUTE ORDER of 12/19/01 by Hon. John W. Darrah : Plaintiff's motion for leave to file, instantner, supplemental appearance of counsel, Deidre Baumann, is granted [18-1]. Mailed notice (ar) [Entry date 12/26/01] [1:00cv680]

Case Flags:
DENLOW

END OF DOCKET: 1:00cv680

PACER Service Center			
Transaction Receipt			
02/01/2002 15:54:47			
PACER Login:	db0609	Client Code:	
Description:	docket report	Search Criteria:	1:00cv00680
Billable Pages:	5	Cost:	0.35

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FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

2125, INC.,

Plaintiff,

VILLAGE OF MELROSE PARK,
a body politic,

Defendant.

Case No. 00 C 0680

Judge John W. Darrab

DECLARATION OF JEANETTE URBINATI

I, Jeanette Urbinati, under provisions of Title 28 United States Code, Section 1746, make the following unsworn declaration under penalty of perjury:

1. I am a principal of the Plaintiff corporation in the above-captioned case.
2. Plaintiff originally hired Attorney Michael Null to prosecute this matter.

However, during the Fall of 2001, it became apparent that Attorney Null was not doing work on the case. Thereafter, Plaintiff retained Attorney Baumann.

3. The first time Plaintiff learned that this case had been dismissed was on or about December 19, 2001. At no time did Attorney Null advise Plaintiff that its right to proceed was in jeopardy.

4. At no time did Plaintiff intend to abandon its right to proceed.

FURTHER AFFIANT SAYETH NAUGHT.

January 11, 2002


JEANETTE URBINATI

PLAINTIFF'S
EXHIBIT

C